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11 INTEGRATED PAIN MANAGEMENT
12 MEDICAL GROUP, INC.

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA
15 SACRAMENTO DIVISION

16 EXAMWORKS, a Delaware limited liability
17 company,

18 Plaintiff,

19 vs.

20 TODD BALDINI, an individual, ABYGAIL
21 BIRD, an individual, LAWRENCE STUART
22 GIRARD, an individual, PAMELLA
23 TEJADA, an individual, ROE
24 CORPORATION, and DOES 1 through 10,

25 Defendants.

No. 2:20-cv-00920-KJM-DB

**STIPULATION AND RULE 502(d)
ORDER**

1 By and through their respective undersigned counsel and subject to the approval of the
2 Court, Plaintiff ExamWorks, LLC, Defendants Todd Baldini, Abygail Bird, Lawrence Stuart
3 Girard, and Pamella Tejada (collectively, “the Parties”) and non-party, Integrated Pain
4 Management Medical Group, Inc. (“Non-Party”) hereby stipulate and agree as follows:

5 1. The Parties and Non-Party wish to expedite and facilitate the production of a large
6 volume of electronic and hard copy data, information, and documents, and to protect against waiver
7 as a result of the disclosure, inadvertent, intentional, or otherwise, of attorney-client privileged
8 communications or work product materials.

9 2. The Parties and Non-Party jointly request that this Court issue an Order pursuant to
10 Federal Rule of Evidence 502(d) to facilitate production and use of documents in this proceeding,
11 and to protect the Parties and Non-Party against waiver of any privileges or protections from
12 discovery applicable to those documents.

13 3. Under Federal Rule of Evidence 502(d), “[a] federal court may order that the
14 privilege or protection is not waived by disclosure connected with the litigation pending before the
15 court – in which event the disclosure is also not a waiver in any other federal or state proceeding.”

16 4. As authorized by Federal Rule of Evidence 502(d), a Party or Non-Party’s disclosure
17 or production of any documents or information in connection with this proceeding, whether
18 inadvertent, intentional, or otherwise, is not, for the purposes of this proceeding and also in any
19 other federal or state proceeding, a waiver of any privilege or protection applicable to those
20 documents, including the attorney-client privilege, work product protection, and any other privilege
21 or protection recognized by law. This Order shall be interpreted to provide the maximum protection
22 against waiver allowed by Federal Rule of Evidence 502(d). The Parties and Non-Party agree that
23 the mere production of electronically stored information in this litigation as part of a mass
24 production shall not itself constitute a waiver for any purpose.

25 5. For the avoidance of doubt, Federal Rule of Evidence 502(b) is inapplicable to the
26 production of documents or information in this case. There shall be no waiver if a Party or Non-
27 Party discloses privileged or protected information, regardless of whether the Party or Non-Party
28 took reasonable steps to prevent the disclosure or to rectify the error.

6. The right of a Party or Non-Party to claw back inadvertently or otherwise produced information that is privileged and/or otherwise protected from discovery (*see* Stipulated Non-Trial Protective Order, § 11, ECF No. 64) is not contingent upon a showing that reasonable steps were taken to avoid disclosure. In the event of any conflict between this Order and the Stipulated Non-Trial Protective Order (ECF No. 64), this Order shall control.

7. Consistent with Federal Rule of Evidence 502(e), each of the Parties and Non-Party agrees that it is bound by this stipulation regardless of whether it is entered by the Court.

IT IS SO STIPULATED

Dated: December 21, 2020
San Francisco, CA

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/s/ James M. Cooper

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Dated: December 21, 2020
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Dated: December 21, 2020
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Dated: December 21, 2020
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Pamella Tejada

ORDER

Pursuant to the parties' stipulation, IT IS SO ORDERED.

DATED: January 4, 2021

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE